IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 6258 of 1997

Between:

CH.Gangaraju, S/o.Krishnamurthy,
Aged about 61 years, Retd. Additional
Assistant Engineer, A.P.S.E.B.,
R/o.Dr.No.J.E.310, V.T.P.S.,
Ibrahimpatnam, Vijayawada, Krishna District.

..... PETITIONER

AND

1. The A.P.S.E.B., represented by its
   Member Secretary, Vidyuthsoudha, Hyderabad.

2. The Chief Engineer (Electricity), O & M.,
   V.T.P.S., Ibrahimpatnam, Vijayawada,
   Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of Certiorari calling for the records relating to the impugned Memo.No.CEE/O&M/VTPS/RPS/C.7/9870/97, dated 25-02-1997 issued by the Chief Engineer, Electricity/C&M/VTPS, Ibrahimpatnam and quash the same by holding the action of the respondents in not releasing the pensionary benefits and other retiremental benefits so far is as illegal, arbitrary, discriminatory and irrational, unjust, perverse, and subversive of Articles 14, 16 and 21 of the Constitution and also opposed to all canons of equity, justice and fair play.

Counsel for the Petitioner:MR.D.LINGA RAO

Counsel for the Respondents : (SC FOR A.P.S.E.B.)

The Court made the following :

O R D E R:

This Writ Petition is filed by the petitioner aggrieved by the proceedings of the second respondent dated 25-02-1997 under which it is proposed to refix the pay of the petitioner on the ground that an annual increment was sanctioned though the petitioner was not eligible for such annual increment which was awarded with effect from 04-01-1972.

2. The petitioner was originally appointed as a Testor in the erstwhile respondent Board in the year 1964. Subsequently, he was promoted as Supervisor in the year 1969. Thereafter, he went on deputation to the Roads and Buildings Department and continued in the said Department till 1990. It is only a few years before retirement he was repatriated to the respondent's Board and thereafter the petitioner retired from service in the year 1994. After retirement, the petitioner's claim for pension was considered and in that process, the respondents have in fact granted provisional pension, but, however, finally in the process of considering the claim of the petitioner for pension it was found that an increment was sanctioned to the petitioner in the year 1972, though he was not eligible, as he did not pass the necessary accounts test. Therefore, the second respondent issued impugned proceedings dated 25-02-1997 cancelling the annual increment that was sanctioned with effect from 04-01-1972 and was also proposing to refix the pay of the petitioner as well as to recover any excess amount paid to the petitioner.

3. Though, the learned counsel for the petitioner advanced various arguments, the primary contention is that the impugned proceedings were passed without issuing any notice or opportunity to the petitioner. Therefore, the impugned order is liable to be set aside on that simple ground.

4. A counter has been filed on behalf of the respondents disputing and denying the allegations made by the petitioner. In the counter, the respondents have reiterated the stand that the petitioner did not pass the Accounts Test, as was prescribed under the Rules. Therefore, he is not entitled for the annual increment that was released by the Roads and Buildings Department.

4. Heard both sides and considered the material on record.

5. In view of the fact that the petitioner was not given any notice before passing the impugned order affecting his interest, the impugned order is set aside on that simple ground for violation of principles of natural justice, without going into the merits of any other contention. However, it is further directed that the impugned order itself is directed to be treated as notice to the petitioner and the petitioner is directed to file objections to the said proceedings within a period of three weeks from the date of receipt of a copy of the order, and on receipt of the objections from the petitioner, the respondent authorities are directed to consider those objections, and pass appropriate orders within four weeks from the date of filing of the objections.

6. Accordingly, the Writ Petition is allowed to the extent indicated

above.

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(S.ANANDA REDDY, J)

Dated : 17..09..2004

Prv

Note :
Issue urgent copy.
B/o
prv

To

1. The Member Secretary, A.P.S.E.B.,
   Vidyuthsoudha, Hyderabad.
2. The Chief Engineer (Electricity), O & M.,
   V.T.P.S., Ibrahimpatnam, Vijayawada,
   Krishna District.
3. 2CD copies